

Customer No. 035884

Attorney Docket No. 2080-3-31

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Eun Sam Kim

Serial No: 09/922,818

Filed: August 6, 2001

For: METHOD FOR EDITING PROGRAM IN  
DIGITAL BROADCASTING RECEIVER

Art Unit: 2621

Examiner: Helen Shibu

Confirmation No.: 8857

DECLARATION UNDER 37 CFR § 1.131

Mail Stop Amendment  
Commissioner for Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450

Sir:

I, Gi-Up Cho, state the following:

1) I am Patent Group Manager for LG ELECTRONICS INC. (LGE), which is the assignee of the above-identified patent application. I am authorized to make the statements disclosed herein on behalf of LGE. At this time, the inventor Eun Kim is unavailable at this time to produce this affidavit, reasonable efforts were made to locate the inventor.

2) On December 30, 1999, patent application 10-1999-00673355 was filed with the Korean patent office. See attached Exhibit A. A certified English translation of the Korean application is attached as Exhibit B. The English translation has been certified as being a true and complete translation of the Korean application. See attached Exhibit C. Korea has been a WTO member country since January 1, 1995.

3) Various inventions embodied in the above-identified patent application were conceived at least as early as December 30, 1999, as evidenced by the filing date of the Korean application (Exhibit A) and corresponding English translation (Exhibit B). See, for example, Figs. 2 and 3, and corresponding portions of the specification, of the English translation.

4) MPEP 2138.05 states that reduction to practice may be an actual reduction or a constructive reduction to practice, and the filing of a patent application (US or foreign) serves as conception and constructive reduction to practice. Thus the inventor need not provide evidence of either conception or actual reduction to practice when relying on the content of the patent application. *Hyatt v. Boone*, 146 F.3d 1348, 1352, 47 USPQ2d 1128, 1130 (Fed. Cir. 1998).

5) From at least as early as December 30, 1999, the Korean patent application identified above was diligently developed, the filing of which constitutes a constructive reduction to practice of the subject matter disclosed, and claimed, in the above-identified patent application.

6) Additionally, from at least as early as April 30, 2001, the U.S. patent application identified above was diligently developed, the filing of which constitutes a constructive reduction to practice of the subject matter disclosed, and claimed, in the above-identified patent application.

7) Based on the disclosure provided in the Korean application, it is evident that a person considered to be one of ordinary skill in the art would be possessed of sufficient information to practice the inventions embodied in the claims of the above-identified application, since the above-identified application was constructively reduced to practice at least as early as December 30, 1999.

